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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,765	12/29/2003	James DeWayne Gray	DeWayne-Gray	2142

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EXAMINER

NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,765

Applicant(s)

GRAY, JAMES DEWAYNE

Examiner

Son T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 11-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,11-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1,2,11-16,18-28** are rejected under 35 U.S.C. 102(e) as being anticipated by Guichon et al. (6569092).

For claim 1, Guichon et al. teach a method of monitoring a livestock animal via a relay satellite, the method comprising the steps of: attaching a radio frequency identification device (RFID) system to the livestock animal (col. 5, lines 1-3, col. 8, lines 47-60, col. 11, lines 60-65); obtaining by the RFID system specific data on the livestock animal (col. 4, lines 1-24, col. 8, lines 47-60); transmitting by the RFID system the specific data to the relay satellite (col. 11, lines 55-65, the GPS satellites with timing devices 134 at various locations); relaying the specific data from the relay satellite to a network hub communicating with a data server (the computer); and storing the specific data in the data server.

For claim 2, Guichon et al. further teach obtaining the specific data from the data server (col. 5, lines 17-67).

For claim 11, Guichon et al. further teach wherein the step of obtaining the specific data from the data server includes accessing the data server via a public network (col. 5, lines 17-44).

For claim 12, Guichon et al. further teach wherein the step of transmitting the specific data to the relay satellite includes automatically transmitting the specific data at a predetermined time period (col. 4, lines 55-67, col. 5, all lines).

For claim 13, Guichon et al. further teach wherein the RFID system includes a locating device for obtaining the location of the livestock animal (col. 4, lines 52-55); and the specific data includes the location of the livestock animal (col. 2, lines 48-52).

For claim 14, Guichon et al. further teach wherein the step of obtaining by the RFID system specific data on the livestock animal includes obtaining biometric readings of the livestock animal from a biometric detector (fig. 5b).

For claim 15, Guichon et al. further teach wherein the step of attaching a radio frequency identification device RFID system on the livestock animal includes affixing an electronic identification tag (col. 4, lines 52-55) to the livestock animal, the electronic identification tag providing a unique identification number for identifying a specific livestock animal.

For claim 16, Guichon et al. further teach wherein the RFID system includes a RFID chip mounted within the electronic identification tag affixed to the livestock animal (col. 11, line 57).

For claim 18, Guichon et al. further teach wherein the step of transmitting by the RFID system the specific data to the relay satellite includes automatically transmitting

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the specific data at a set time period frequency (claim 6), and the step of storing the specific data in a data server includes the step of automatically compiling the specific data of the livestock animal with a plurality of other livestock animals (figs. 5A-5C).

For claim 19, Guichon et al. further teach the step of modifying the specific data by a user within the data server (by using the computer).

For claim 20, Guichon et al. teach a system for monitoring a livestock animal, the system a radio frequency identification device (RFID) system attached to the livestock animal (col. 11, line 57), the RFID system electronically identifying the livestock animal; means for obtaining specific information on the livestock animal (col. 4, lines 55-67); and means for transmitting the obtained specific information of the livestock animal to a relay satellite (col. 11, lines 55-65, the GPS satellites with timing devices 134 at various locations).

For claim 21, Guichon et al. further teach a data server for storing and automatically compiling the obtained specific information of the livestock animal (col. 4, lines 55-67); and a relay satellite (the GPS and GPS timing devices as discussed in col. 11, lines 55-65) for relaying the transmitted specific information to the data server.

For claim 22, Guichon et al. further teach wherein the means for transmitting the obtained specific information of the livestock animal includes transmitting the obtained specific information automatically at a predetermined time period (see claim 6).

For claim 23, Guichon et al. further teach wherein the means for obtaining specific information on the livestock animal includes a biometric detector for detecting a biometric reading of the livestock animal (figs. 5A-5C and claim 7).

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For claim 24, Guichon et al. further teach wherein the obtained specific information stored in the data server is accessible via a public network (by computer).

For claim 25, Guichon et al. further teach wherein the RFID system includes a global positioning satellite (GPS) receiver for determining the location of the livestock animal (col. 4, lines 55-61).

For claim 26, Guichon et al. teach a system for monitoring a livestock animal, the system comprising RFID (col. 11, line 57); a relay satellite (col. 11, lines 55-67, the GPS and GPS timing devices) ; a satellite transmitter 32; and a data server 50.

For claim 27, Guichon et al. teach RFID ID tag attached to the animal (col. 11, line 57).

For claim 28, Guichon et al. teach the data server is accessible by a public network (by computer).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 17** is rejected under 35 U.S.C. 103(a) as being unpatentable over Guichon et al. (as above) in view of Willham, et al. (5322034).

Guichon et al. disclose an RFID chip but lack the chip implanted under the skin. Willham et al. disclose an implantable chip (read as being located under the skin). It would have been obvious to one having ordinary skill in the art at the time the invention

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was made to employ an implantable RFID chip as taught by Willham et al. in the method of Guichon et al. in order to have a more secure means to attach the RFID to the animal and to prevent obstruction to the chip.

Response to Arguments

5. Applicant's arguments filed 5/23/05 have been fully considered but they are not persuasive.

Applicant argued that no information is transmitted from the GPS receiver or the data collection and transmission unit to the satellite.

As stated in col. 11, lines 5-67, the RFID tag is attached to the animal to obtain data on the animal. Then, the RFID system transmits the data to GPS and GPS timing devices 134, which is a relay satellite, i.e. relaying data from the RFID system to the computer for storage.

Applicant argue that Guichon et al. system only monitors animals within a specified area, while the present invention is for the open range.

The claim language does not exclusively state only for the open range. Even if so, Guichon's system relies on GPS satellites orbiting the Earth, thus, it would be obvious for one of ordinary skill to apply the Guichon's system to an open range because such GPS system as taught by Guichon is known to be use for open range livestock management.

A specified area can be an open range specified for cattle to roam. Guichon et al. state a feedlot for an example but do not restrict just a feedlot because the system is designed for the lifespan of the animal from various locations (col. 4, lines 25-35). As

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notoriously well known, an open range is one of those locations that a rancher places his/her cattle.

Applicant argued that Guichon does not teach or suggest the transmission of data to a satellite. The only mention of a satellite is for use with a GPS receiver, which only receives information from the satellite and definitely is not used as a relay satellite to relay information to another location.

The GPS receiver is not the only mentioned of a satellite because clearly col. 4, lines 55-61, states a GPS satellite 33.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Son T. Nguyen
Primary Examiner
Art Unit 3643

stn